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Paper No. 13

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In re Application of: Archibald, Jr. et al.)
Application No.: 09/692,957)
Filed: October 20, 2000) **DECISION GRANTING PETITION**
Attorney Docket No.: SJO920000056US1) **TO ACCEPT CORRESPONDENCE AS**
For: METHOD AND APPARATUS FOR) **TIMELY FILED UNDER 37 CFR §1.8**
USING EXTENDED DISK SECTOR)
FORMATTING TO ASSIST IN BACKUP AND)
HIERARCHICAL STORAGE MANAGEMENT)

This decision is in response to the petition under 37 CFR §1.181 to withdraw the holding of abandonment filed on July 15, 2004. The request is being considered a petition to accept papers as timely filed under 37 CFR §1.8.

In support of the petition, petitioners have provided a statement as to the events subsequent to the receipt of the advisory action mailed September 5, 2003. The Office in fact, received the Notice of Appeal on September 26, 2003. However, there is no record of the Appellants' Brief in the application file. The petition includes three copies of the Appellants' Brief and a copy of a return postcard bearing the stamped entry of December 24, 2003.

A postcard receipt serves as *prima facie* evidence of receipt in the USPTO. The evidence provided establishes that a timely response was, in fact, received on December 24, 2003. The Office failed to match the response to the application file.

The petition is **GRANTED**. The application was not abandoned in fact. The Office regrets any inconvenience caused by this error. It is noted transmittal letter that accompanied the petition contains a header at the very top for "S/N 09/514,881." Applicants are advised not to include other application numbers on papers filed with the Office in order to avoid confusion in matching papers properly.

The application will be forwarded to the Technical Support Staff for processing of appellants' brief and request for extension of time. Thereafter, the application will be forwarded to the examiner for consideration of the communication.

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